

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.**

FIRST APPEAL NO.756 OF 1987.

Municipal Corporation of

Gr.Bombay. : Appellants.

versus

Miss. Dolly Thakore : Respondent.

Mr.K.K.Tated with Ms.G.S. Roychoudhari for
the appellant.

Mr. V.V.Khemka with Mr.S.R.Rawell for
Mr.S.R.Kudroli for the respondent.

CORAM : D.G.DESHPANDE, J.

DATED : 27th April 2005.

ORAL ORDER [IN CHAMBER]

1. Not on board. The matter is mentioned in
chamber by the advocate for the respondent.
Advocate for the appellant is present. By
consent it is taken on board for speaking to the

minutes.

2. It is for the second time the matter is coming before me for speaking to minutes of my order dated 17th February 2005. In that order I had accepted the alternate suggestion given by the advocate for the respondent. In para 6 of that order, in last para 10, I have noted the alternate suggestion, according to which, the principal amount that was decreed was Rs.2,50,800/-. The interest on that amount comes to Rs.1,61,254/-. Therefore, the total amount comes to Rs.4,12,054/-. The BMC has deposited Rs.Three lacs on 16.12.1987 for which the respondent gave adjustment. The balance amount remains to Rs.1,12,054/-, which was converted into round figure Rs.1,15,000/-. It was to carry 12% interest. The interest on that amount comes to Rs.2,18,342=50 plus costs awarded by the tribunal and, the total comes to Rs.3,49,773=95.

3. The counsel for the respondents contended that if this was the alternate suggestion given by him and it was accepted, then in the operative part of the order the BMC should have been directed to pay Rs.3,49,733.95.

. Mr. Tated on the other hand contended that the Court has, while passing the order, taken into consideration the fact that after deposit of the amount by the BMC the respondent was not to be entitled to any interest, because by depositing the amount and then respondent withdrawing the amount, the BMC has to put to loss because the BMC could not earn anything on the amount so deposited. He also contended that if Rs. Three lacs has to be fare invested, then that would have fetched substantial interest to the BMC which could have been sufficient to satisfy the claim of the respondents. He, therefore, contended that no correction in the order is required.

4. However, after discussion with both the counsel, it was found that if the alternate suggestion of the advocate for the respondents was accepted by me, then they are entitled to Rs. 3,49,733=95 as stated above. The contention of the BMC that they have lost interest because of the deposit was also taken into consideration by me. Therefore, the matter can be resolved and now it is resolved in presence of both the

counsel to the effect that from the date of deposit of Rs.Three lacs i.e. 16.12.1987 till withdrawal on 27.4.1988 which is for 4 months and 11 days, the respondents would not be entitled to interest. That interest roughly comes to Rs.9500/- and that amount has been deducted from Rs.3,49,733=95. The net amount comes to Rs.3,40,233=95. Therefore, in view of this, the order dated 17th February 2005 stands modified as under :-

. The Municipal Corporation of Greater Bombay to pay Rs.3,40,233=95 to the respondents within six weeks from today without fail. Any further delay beyond six weeks on the part of the Municipal Corporation will carry 12% interest on that amount.

[D.G.DESHPANDE]

27/04/2005

JUDGE.